

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

NO. 7:11-CR-153-BO-2

UNITED STATES OF AMERICA, :
 :
 v. :
 :
ALAN JOHNSON :
 :

ORDER

Upon Motion by the Government, the Court makes the following findings of fact and conclusions of law as it relates to the sentencing of Alan Johnson.

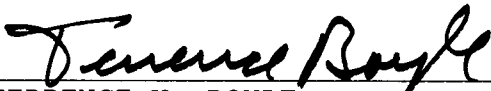
1. Johnson was indicted in Counts Four and Nine with a violation of Title 18 United States Code Section 924(c).
2. Both of those counts related to the same offense; that is the home invasion that occurred on July 10, 2011.
3. The Government indicted one offense two different ways; as Robbery of a Business Engaged in Interstate Commerce, in violation of Title 18 United States Code Section 1951, Count Three, and Carrying and Using a Firearm in Furtherance of the Crime of Violence in violation of Title 18 United States Code Section 924(c), Count Four and Possession with Intent to Distribute Marijuana, in violation of Title 21 United State Code Section 841(a)(1), Count Five and Carrying and Using a Firearm in Furtherance

of that Drug Trafficking Crime, in violation of Title 18
United States Code Section 924(c), Count Six.

4. Counts Four and Six are 924(c) counts that originate out of
the same offense and therefore will support only one
sentence. See U.S. v. Johnson, 25 F.3d 1335 (6th Cir. 1994)
and U.S. v. Finley, 245 F.3d 199 (2nd Cir. 2001).

Based on the above stated reasons, the Court at the time of
sentencing arrests judgment on Count Four.

SO ORDERED on 5/8/2013.



TERRENCE W. BOYLE
United States District Court Judge